

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 10531 of 2005

15-09-2005

Between:

Mrs. P. Kalpana Rao, W/o P. Subba Rao,
R/o 63, Princeton Court, Hill Fort, Basheerbagh, Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Secretary, Revenue

Secretariat, Hyderabad.

2 The Deputy Director Survey and Land Records, Hyderabad.

.....RESPONDENTS

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 10531 of 2005

O R D E R:

This petition has been filed with a prayer to issue a writ of Mandamus or any appropriate writ or order or direction declaring the Memo dated 23-4-2005 vide Letter No.A3/60/2005 as illegal and arbitrary.

The petitioner claims to be the owner of the house plot admeasuring 9-10 square yards comprising survey No.129/30 (New Survey No.340) situated at Road No.12, Banjara Hills, Hyderabad. It is stated that the petitioner submitted

an application for demarcation of survey No.129/30. Thereupon the authorities asked her to remit necessary fees to the head of account i.e. 0506-Land Reforms 800 other receipts 77 (SH) User charges 001. Accordingly, a necessary fee has been paid by the petitioner. Subsequently, the memo impugned came to be issued to the petitioner with the following endorsement:

“With reference to the application cited, the applicant Smt.P.Kalpana w/o P.V.Subba Rao is hereby informed that her request for demarcation Sy.No.129/30 correlated to T.S.No.22 Block-K Ward 12 of Shaikpet village & Mandal cannot be considered, since subject land is under subjudice in O.S.No.1501/2004 on the file of the Hon'ble IV Sr.Civil Judge's Court City Civil Court, Hyderabad for to the title dispute”

Assailing the same, the petitioner by invoking the jurisdiction of this Court under Article 226 of the Constitution of India, filed the present writ petition.

The respondents filed counter affidavit. Sri A.Bhaskara has sworn to the counter affidavit.

It is stated in the counter affidavit that the plaintiff in O.S.No.1501/2004 has already approached this Court in W.P.No. 1457 of 2004 for demarcation and by virtue of the orders of this Court already survey was conducted and demarcation was concluded. I deem it appropriate to refer para 3 of the Counter affidavit and it is thus:

“ It is true that the request of the petitioner for demarcation was rejected under Memo Dt.23-4-2005 for the reason of pendency of civil dispute on O.S.No.1501/2004 filed by Syed Sarfaz Hussain and others against the District Collector, Deputy Director, Survey and Land Records and others seeking a direction for correction of entries in Column-20 of T.S.L.R. in respect of land in Sy.No.129/30 by deleting the name of Shaik Amoodi and the said suit is pending adjudication. As per the Town Survey conducted during 1964 to 1970, the name of Syed Shaik Ahmed Amoodi was recorded in the TSLR and the petitioner is claiming right and title through the said shaik Ahmed Amoodi. As stated supra, a civil suit for change of the entries in the TSLR is still pending adjudication. The plaintiff in the suit O.S.No.1501/2004 has already approached this Hon'ble Court in W.P.No.1457/04 for demarcation and by virtue of the orders of the Hon'ble Court already survey was conducted and demarcation was concluded. In view of the rival claims with regard to the title and possession for the property in question request for survey was rejected. It is true that the

petitioner is tracing here title through Amoodi whose name as on date is recorded in the TSLR. As the suit for change of entries and the name of amoodi is still pending, It is felt that the request cannot be considered unless the civil suit is decided. As the survey was already conducted pursuant to the earlier orders in W.P.No.1457/04 necessary survey will be conducted in case the Hon'ble Court directs the survey authorities to conduct survey once again on the request for the petitioner."

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondents.

Learned counsel for the petitioner submitted that the petitioner is not a party to O.S.No.1501 of 2004 therefore, pendency of the suit cannot be a ground for rejection of the application of the petitioner for demarcation of survey No. 129/30.

Learned Government Pleader for revenue appearing for the respondents submitted that the petitioner is at liberty to get herself implead as party to O.S.No. 1501 of 2001 and can seek necessary direction.

It is no more in dispute that the petitioner is not a party to the suit proceedings in O.S.No.1501 of 2004. Therefore, the petition filed by the petitioner for demarcation of Survey No.129/30 cannot be rejected on the ground of pendency of O.S.No.1501 of 2004. Therefore, I am of the considered view that the impugned memo issued to the petitioner rejecting her request for demarcation of survey No.129/30 is liable to be set aside.

Accordingly, the writ petition is disposed of directing the respondents to consider the application of the petitioner for demarcation of survey No.129/30 and pass appropriate orders within two months from the date of receipt of a copy of the order. No costs.

15-09-2005

Mjl/*